

PROPOSITION \_\_\_\_

**LIMITING THE AUTHORITY AND COMPENSATION OF THE CITY ATTORNEY,  
ESTABLISHING TERM LIMITS FOR THE CITY ATTORNEY, AND AUTHORIZING  
THE ESTABLISHMENT OF THE OFFICE OF LEGISLATIVE COUNSEL**

**Section 1. Purpose.**

This charter amendment is intended to limit the authority and compensation of the City Attorney, as specified herein, to establish term limits for the City Attorney, and to authorize the City Council to establish the office of Legislative Counsel. These amendments to the City Charter are intended to achieve these goals.

**Section 2. Amendment of the Charter**

A. Section 503 of the Charter of the City of Chula Vista is hereby amended to read as follows:

Section 503 City Attorney; Election, Powers and Duties

(a) Designation as Officer. The City Attorney shall be an officer of the City, in addition to any other officers designated pursuant to this Charter. Except as otherwise provided by this Charter, it is the intent of the voters that the City Attorney shall be sufficiently independent of the City Council and other city officials to advise the City while also acting in the best interests of the public.

(b) Powers of the City Attorney. Except as otherwise provided by this Charter, the City Attorney shall:

(1) Represent and advise the City Council and all city officers in all matters of law pertaining to their offices and advise all boards, commissions, and other agencies of the City on legal matters referred to him or her, and render written legal opinions when the same are requested in writing by the Mayor or a member of the Council or the City Manager or any other officer, board or commission of the City; provided, however, that the City Council may provide by ordinance that the City Attorney shall neither advise, nor participate in the selection of special legal counsel to advise, on conflict of interest issues involving the City Attorney;

(2) Represent and appear for the City and any city officer or employee, or former City officer or employee, in any or all actions and proceedings in which the City or any such officer or employee in or by reasons of his or her official capacity, is concerned or is a party;

(3) Attend all regular meetings of the City Council and give his or her opinion in writing whenever requested to do so by the City Council or by any of the boards or officers of the City;

(4) Approve the form of all contracts made by and all bonds given to the City, endorsing approval thereon in writing;

(5) Prepare any and all proposed ordinances or resolutions for the City, and amendments thereto;

(6) Prosecute, if so directed by ordinance of the City Council, all offenses against the ordinances of the City and for such offenses against the laws of the State as may be required by law, and shall have concurrent jurisdiction with the District Attorney of the County of San Diego to prosecute persons charged with or guilty of the violation of the State laws occurring within the City limits of the City of Chula Vista for offenses constituting misdemeanors;

(7) Whenever a cause of action exists in favor of the City, exercise discretion as to when to commence or maintain legal proceedings, subject to the approval or ratification by the City Council, when the basis for such action is within the knowledge of the City Attorney, or, he or she shall commence or maintain legal proceedings as directed by the City Council; and

(8) Surrender to his or her successor all books, papers, files and documents pertaining to the City's affairs.

The Council may empower the City Attorney, at his or her request, to employ special legal counsel on a particular matter, and he or she shall have the power to appoint appraisers, engineers and other technical and expert services necessary for the handling of any pending or proposed litigation, proceeding or other legal matter, all within the specific budgetary authority established by the City Council. Upon the approval of the Council, when the City Attorney has a conflict of interest in litigation involving another officer of the City in his or her official capacity, such other officer may retain special legal counsel at City expense, subject to the specific budgetary authority of the City Council. Nothing in this section 503 shall be construed to prevent the City Attorney from giving confidential advice to the City when otherwise allowed by law.

(c) Election; Compensation of City Attorney. The City Attorney shall be nominated and elected in the same manner and at the same election as a member of the City Council, except as otherwise provided in this section. The annual salary of the elected City Attorney shall be equivalent to the salary of a Judge of the Superior Court of the State of California. The City Attorney shall also receive reimbursement on the order of the Council for Council-authorized travel and other expenses when on official duty out of the City. The City Council may also provide, by resolution, for the payment of an allowance of a sum certain per month, as reimbursement for the additional demands and expenses made upon and incurred by the City Attorney. The City Attorney's salary may not be reduced during the City Attorney's term of office, except as part of a general reduction of salaries of all City officers and employees in the same amount or proportion. In addition, the City Attorney shall be entitled to such benefits as are granted to other management employees of the City, as established by the City Council from time to time. The City Attorney shall be in the Unclassified Service.

(d) Qualifications of City Attorney. No person shall be eligible for or continue to hold the office of City Attorney, either by election or appointment, unless he or she is a citizen of the United States, a qualified elector, and a California resident, licensed to practice law in all courts of the State of California and so licensed for at least seven years preceding his or her assumption of office following election under this charter.

(e) Term of office of the City Attorney. The City Attorney shall be elected to a nominal term of four years and shall commence on the first Tuesday of December of the year of the election, and shall continue until a successor qualifies. The City Attorney shall be subject to the same limits on terms of service as are applicable to the Mayor and City Council under Section 300(d).

(f) Vacancy, Filling of. Upon the declaration of vacancy in the office of the City Attorney, the office of the City Attorney shall be filled by appointment by the majority vote of the members of the Council; provided, that if the Council shall fail to fill a vacancy by appointment within sixty days after such office shall become vacant, or if the unexpired term of the City Attorney shall exceed 24 months at the time of the appointment, the City Council shall cause a special election to be held to fill such vacancy. An appointee or the person elected to the office of City Attorney for the balance of an unexpired term shall hold office until the next general election for the office of the City Attorney.

(g) Vacancy, What Constitutes. The office of City Attorney shall be declared vacant by the Council when the person elected or appointed thereto fails to qualify within ten days after his or her term is to begin, dies, resigns, ceases to be a resident of the State or absents himself or herself continuously from the State for a period of more than thirty days without permission from the Council, absents himself or herself from any seven consecutive regular meetings except on account of own illness or when absent from the City by permission of the Council, is convicted of a felony, is judicially determined to be an incompetent, is permanently so disabled as to be unable to perform the duties of his or her office, forfeits his or her office under any provision of this Charter, or is removed from office by judicial procedure. A finding of disability shall require the affirmative vote of at least two-thirds of the members of the Council after considering competent medical evidence bearing on the physical or mental capability of the City Attorney.

B. Section 503.1 is hereby added to the Charter to read as follows:

Section 503.1. Office of Legislative Counsel; Duties.

Notwithstanding any other provision of this Charter, the Council may establish by ordinance the office of Legislative Counsel, as described in this section.

(a) Legislative Counsel may be selected by the Council and serve at the pleasure of the Council, on terms and conditions prescribed by the Council. Appointment or dismissal of the Legislative Counsel shall be approved by a majority vote of the Council.

(b) Legislative Counsel may advise the Council regarding its legislative duties. Legislative Counsel shall neither oppose nor urge enactment of any legislation.

(c) Legislative Counsel may also advise the Council regarding conflicts of interest involving the City Attorney, and whether the hiring of special counsel is therefore warranted. If the Council approves the hiring of special counsel, Legislative Counsel may assist the Council in the selection and appointment of special counsel.

(d) Legislative Counsel may further advise the Council or the City's Board of Ethics concerning the City's Code of Ethics and alleged violations thereof, and further may advise the City's Charter Review Commission. Legislative Counsel may also provide such other assistance to the Board of Ethics in investigating or assisting the Board in the conduct of hearings, including the hiring of special counsel to the Board.

(e) The Council may further provide by ordinance that the advice of the Legislative Counsel on the matters set forth in this section 503.1 shall be in lieu of that of the City Attorney. The Council may additionally or alternatively provide by ordinance for the prevention or resolution of conflicts and/or disputes between the City Attorney and Legislative Counsel.

### **Section 3. Implementation**

Upon the effective date of this initiative, the provisions of this initiative shall be inserted into the Charter as amendments thereto. Any provisions of City Charter, state law or city ordinances inconsistent with these amendments shall be unenforceable to the extent of the inconsistency.

### **Section 4. Severability.**

If any word, sentence, paragraph, subparagraph, section or portion of this initiative is declared to be invalid by a court, the remaining words, sentences, paragraphs, subparagraphs, sections and portions are to remain valid and enforceable.

### **Section 5. Amendment or Repeal.**

This initiative may be amended or repealed only by the voters at a City election.

### **Section 6. Effective Date.**

If a majority of the voters voting on the proposed charter amendment vote in its favor, the charter amendment shall become valid and binding upon filing by the California Secretary of State.